

Rep. Wagner's *Export Control Enforcement and Enhancement Act*

The People's Republic of China (PRC) is bent on supplanting the U.S. not only as the global engine of innovation, discovery, and advancement, but also as the world's dominant military power. To do so, it seeks to turn our strengths against us, using a mixture of coercion, predation, and outright intellectual property theft to gain an edge.

The U.S. export controls regime is a key defense against PRC subversion of American ingenuity. Equally importantly, export controls can be a powerful tool against adversaries like Iran and Russia, which rely on access to foreign technology to support their violent and destabilizing agendas. Vigilantly updating and enforcing our export controls is more important now than ever, as the PRC, Iran, and Russia increasingly coordinate to circumvent U.S. export controls and attack our national security interests.

The current export control regime is simply too slow and cumbersome to prevent PRC and other companies from accessing sensitive U.S. technologies that can be used to give our enemies a military edge.

Rep. Wagner's *Export Control Enforcement and Enhancement Act* would:

1. Ensure export control bodies have the flexibility and bandwidth to address adversary efforts to circumvent U.S. export controls.

- The Entity List is a list of foreign persons, businesses, research institutions, and government and private organizations that represent a threat to U.S. national security and foreign policy interests.
- U.S. exports to parties on the Entity List are prohibited unless the exporter applies for and receives a special license.
- The End User Review Committee, comprised of representatives from the Departments of State, Defense, Energy, Commerce, and other agencies as appropriate, is responsible for creating and maintaining the Entity List.
- However, with Chinese and other adversary entities working overtime to exploit loopholes in our export control regime, the End User Review Committee is not nimble enough to keep the Entity List fully up to date.
- The *Export Control Enforcement and Enhancement Act* will give State, Defense, and Energy a stronger voice in bringing entity list packages to a vote and set a 30-day deadline to resolve proposed modifications, granting Departments with deep expertise in the current threat landscape an equal role in curating the Entity List.

2. Keep sensitive American products that would make a significant contribution to our adversaries' military potential out of the hands of bad actors.

- Items that "make a significant contribution to the military potential" of a country are export controlled for national security (NS) reasons.
- But Commerce's Bureau of Industry and Security (BIS) is approving far too many license applications allowing companies to export these items anyway.
- For example, despite the PRC's ongoing military buildup, the *Wall Street Journal* has reported that BIS approved 94% of applications for technology exports to China in 2020 and 88% in 2021.

- Former DOD export controls analyst Steve Coonen recalls that the U.S. government allowed more than 95% of national security-controlled technology transfer applications specifically to move forward, as of August 2021.
- The *Export Control Enforcement and Enhancement Act* sets a presumption of denial for all license applications to export items controlled for national security reasons to countries under a U.S. arms embargo.
 - These countries include Afghanistan, Belarus, Burma, Cambodia, the Central African Republic, the People's Republic of China, the Democratic Republic of the Congo, Cuba, Cyprus, Eritrea, Haiti, Iran, Iraq, North Korea, Lebanon, Libya, Russia, Somali, South Sudan, Sudan, Syria, Venezuela, and Zimbabwe.
- A presumption of denial means that license applications will be automatically denied in most cases unless the exporter can provide clear evidence to show that the item will not be diverted to increase the military potential of dangerous countries like Russia and the PRC.